

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA**

NATCO PHARMA LIMITED,)
)
Applicant,) Civil Action File No. 20-mc-70
)
v.)
)
DIGITALOCEAN, LLC)
)
Respondent.)
)
)

**REQUEST FOR INDENTITY OF
INFRINGEMENTS PURSUANT TO 17 U.S.C. § 512(h)**

Pursuant to 17 U.S.C. Section 512(h), Applicant Natco Pharma Limited (hereinafter “Natco”), respectfully requests that the Clerk issue a Subpoena Duces Tecum to Respondent DigitalOcean, LLC in the form attached as Exhibit B, and respectfully show the Court as follows:

I. Applicable Law

17 U.S.C. Section 512(h) provides:

(h) SUBPOENA TO IDENTIFY INFRINGER.

(1) REQUEST.

A copyright owner or a person authorized to act on the owner’s behalf may request the clerk of any United States district court to issue a subpoena to a service provider for identification of an alleged infringer in accordance with this subsection.

(2) CONTENTS OF REQUEST. The request may be made by filing with the clerk

(A) a copy of a notification described in subsection (c)(3)(A);

(B) a proposed subpoena; and
(C) a sworn declaration to the effect that the purpose for which the subpoena is sought is to obtain the identity of an alleged infringer and that such information will only be used for the purpose of protecting rights under this title.

(3) CONTENTS OF SUBPOENA. The subpoena shall authorize and order the service provider receiving the notification and the subpoena to expeditiously disclose to the copyright owner or person authorized by the copyright owner information sufficient to identify the alleged infringer of the material described in the notification to the extent such information is available to the service provider.

(4) BASIS FOR GRANTING SUBPOENA. If the notification filed satisfies the provisions of subsection (c)(3)(A), the proposed subpoena is in proper form, and the accompanying declaration is properly executed, the clerk shall expeditiously issue and sign the proposed subpoena and return it to the requester for delivery to the service provider.

(5) ACTIONS OF SERVICE PROVIDER RECEIVING SUBPOENA. Upon receipt of the issued subpoena, either accompanying or subsequent to the receipt of a notification described in subsection (c)(3)(A), the service provider shall expeditiously disclose to the copyright owner or person authorized by the copyright owner the information required by the subpoena, notwithstanding any other provision of law and regardless of whether the service provider responds to the notification.

(6) RULES APPLICABLE TO SUBPOENA. Unless otherwise provided by this section or by applicable rules of the court, the procedure for issuance and delivery of the subpoena, and the remedies for noncompliance with the subpoena, shall be governed to the greatest extent practicable by those provisions of the Federal Rules of Civil Procedure governing the issuance, service, and enforcement of a subpoena duces tecum.

II. Request for Subpoena Duces Tecum

Applicant Natco satisfied each of the requirements of 17 U.S.C. 512(h) as follows:

1. A true and correct copy of Applicant's notice to Respondent under the Digital Millennium Copyright Act (17 U.S.C. 512(c)(3)(A) is hereby attached as Exhibit A.
2. The form of the proposed subpoena to Respondent is hereby attached as Exhibit B.
3. A sworn declaration to the effect that the purpose for which the subpoena is sought is to obtain the identity of an alleged infringer and that such information will only be used for the purpose of protecting rights under this title is hereby attached as Exhibit C.

For the aforementioned reasons, Applicant Natco requests the Clerk of this Court to issue a Subpoena to Respondent DigitalOcean, LLC in the form attached as Exhibit B.

Respectfully submitted this 5th day of October 2020.

/s/William Schultz
Christopher Sorenson
William Schultz
MERCHANT & GOULD P.C.
150 South Fifth Street
Suite 2200
Minneapolis, MN 55402
Email: csorenson@merhantgould.com
wschultz@merchantgould.com
Main Telephone: (612) 332-5300
Main Facsimile: (612) 332-9081